PLAINTIFF'S EXHIBIT

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Paying to Pollute

Nixon Proposal to Tax Befoulers of the Air Could Bring New Type of Pollution Control

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Take a deep breath, businessmen. Next thing you know, you might be paying to use the air.

The air supply, after all, isn't unlimited, and clean air is becoming valuable. The federal government might do well to charge for its use—especially when an industry makes the air a dump for wastes.

That's the gist of the thinking in the Nixon administration in support of its plan to ask Congress to tack a tax onto sulphur emissions. For the privilege of puffing a pound of sulphur into the air, a company might have to pay from a penny to a dime. At current emission levels, that could mean as much as $7 billion in revenue. It would be a lot cheaper, the administration reasons, for business to quit polluting.

The proposed tax, which is sharply opposed by industry, is being billed as a cornerstone of the President's environmental program. If the idea gets off the ground in Congress, it could lead to a flurry of other taxes on emissions of carbon monoxide, nitrogen oxide, hydrocarbons and particulates. The concept could eventually include everything that pollutes—from liquid wastes spilled into rivers to nonreturnable bottles.

Reversing the Incentives

Approval of the tax could produce a quiet revolution in the philosophy of pollution control. Democratic Rep. Les Aspin of Wisconsin, who introduced a bill last month asking, among other things, for the taxation of nonreturnable bottles, says the idea "will reverse the entire incentive process by making it more profitable not to pollute."

The Joint Economic Committee, headed by Sen. William Proxmire, also a Wisconsin Democrat, is calling scientists and environmental experts to hearings in Washington today to explore the fuller use of the "incentives," as they are euphemistically called. Richard Wegman, an aide to the Senator, says the incentives could attack pollution "right at the source," supplementing and perhaps even substituting for the specific standards that have dominated pollution laws up to now.

The idea isn't completely new. The Ruhr River Valley in Germany has had a charge on effluents for years. Three cities—Otsego, Mich., Springfield, Mo., and Cincinnati—have similar taxes on water pollution. And on July 1 Vermont became the first state to charge companies that foul rivers and lakes.

The idea isn't entirely new even in Congress. President Nixon's proposed tax on lead in gasoline was stymied last year, and so was a Proxmire plan for water-pollution taxes.

But the tax on sulphur emissions, which is due to be submitted to Congress this summer, has some important backing the others lacked: The environmentalists are behind it. The environmentalists have long equated pollution with sin. A tax that permits pollution to continue was considered a thinly veiled license to pollute. Thats the way the environmentalists felt last year when they spoke out against the various tax plans.

Now they have changed their minds. "We're looking at these incentives in a different context," says Michael McCloskey, executive director of the Sierra Club. "None of the controls we have are really doing the job. Even with them, the air isn't going to be that clean." Instead of a license to pollute, the Sierra Club now praises the sulphur tax as a vital aid in the allocation of a scarce resource—clean air.

On the industry side, representatives of the coal, oil and mining companies say costs would skyrocket if a charge was placed on every pound of sulphur coming out of smokestacks. These industries collectively belch almost 35 million tons of sulphur into the atmosphere a year.

Kennecott Leads Opposition

The major opponent is Kennecott Copper Corp., the leading domestic copper producer and a company that stands to be hit hardest by an emissions tax. The legislation hasn't even reached Congress, but Kennecott has already given newsmen a lengthy briefing against the tax.

Gilbert E. Dwyer, administrative vice president, is lobbying hard among Congressmen from the Western states, where most of the copper smelters are, and is still trying, without much success, to stop the plan before it emerges from the White House. At this point the other industries involved are giving Kennecott moral support but aren't out doing any fighting.

The cause of Kennecott's concern is easy to see. The sulphide ores from which it extracts copper produce the most highly concentrated sulphur dioxide emissions there are—about four million tons a year from only 16 smelters, compared with 25 million tons from about 800 power plants. (Kennecott also owns Peabody Coal Co., the largest supplier of coal to electric utilities.)

A study made for Kennecott estimates $607 million will be needed to clean up emissions at 12 Western smelters by 1975, when federal air-quality standards go into effect. The company says the sulphur tax, if imposed immediately, could double the cost.

Kennecott questions the proposed tax on scientific grounds, too. The company agrees that sulphur dioxide is harmful, but it argues that other factors—stack height, gas temperature and exit gas velocity—must be taken into account. The proposed tax, says the company, only measures the sulphur, not the pollution.

The standards that go into effect in 1975 permit some pollution. A sulphur tax shouldn't be applied to all the sulphur emitted, Kennecott argues, because companies would still be paying after the standards are met. Company experts say there isn't any solid evidence to prove that traces of sulphur in the air damage plant and animal life or impair human "welfare" by cutting down on visibility. The company has already brought a court action against the "welfare" standards in the Clean Air Act of 1970. As a matter of principle, moreover, Kennecott says it opposes the tax because it means "selling the right to pollute."

A coal industry lobbyist, Joseph Mullans, sees an even darker future if the tax is imposed. Because there isn't an adequate method for removing sulphur from coal, he predicts utilities would pin the cost of the tax onto bills they send customers. That, he says, would mean a 50% increase in the cost of electricity. And the pollution would be as bad as ever, he says.

All these arguments haven't shaken the administration. "We're committed to submit a proposal," says one staff member of the Council on Environmental Quality. "We're not selling out." One major reason is that administration scientists are convinced it will eventually be shown that any amount of sulphur in the air can be dangerous.

"We've picked numbers for our standards, but there are a lot of unknowns," says Bernard Steigenwald, an official of the Environmental Protection Agency. "We see long-range chronic effects of any amount of sulphur in the air." Among them, he says, might be "a general deterioration of the air, acid rains and a dark cloud coming over us because of sulphur overloading."

Still, the administration is showing a willingness to compromise. Officials working on the proposal, who don't want to be identified, say there is at least some chance of lessening the "double whammy" of paying the tax while meeting the federal standards. And there is a possibility that the tax burden would be lightened after the standards are met. The dickering is in the "tricky" stage, says a Nixon administration official.

The final form the proposed legislation will take is still up in the air. No one is certain, for example, what use would be made of the revenue. And the actual proposed tax isn't set, though it is expected to be one cent in the first year with one-cent increases until it hits 10 cents a pound in 10 years.

The administration believes the states would have an easier time enforcing the air quality standards if they could use the tax as a policing device.

The states don't all agree. Jean Schueneman, who is in charge of air-quality control in Maryland, says the tax would create "monstrous" problems of monitoring every plant. "With the standards," he says, "we need a light random sampling to keep 'em honest. With the tax, you have to find out exactly how much sulphur each plant is dumping into the air."